

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DANIEL MOODY,

Petitioner,

v.

JAMES OBENLAND,

Respondent.

CASE NO. 3:20-cv-05984-TL-TLF

ORDER ADOPTING REPORT AND  
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of United States Magistrate Judge Theresa L. Fricke. Dkt. No. 11. Having reviewed the Report and Recommendation, Petitioner Daniel Moody's Objections to Report and Recommendation (Dkt. No. 12), Respondent's Response to Objections to Report and Recommendation (Dkt. No. 13), and the remaining record, the Court ADOPTS the Report and Recommendation and OVERRULES the objections.

A district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (the Court "must determine de novo any part of the

1 magistrate judge's disposition that has been properly objected to."). "The district judge may  
2 accept, reject, or modify the recommended disposition; receive further evidence; or return the  
3 matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); *accord* 28 U.S.C.  
4 § 636(b)(1). A party properly objects when the party files "specific written objections" to the  
5 report and recommendation as required under Federal Rule of Civil Procedure 72(b)(2).

6 Mr. Moody's objection focuses on a single issue: whether the guilty plea statement  
7 misadvised him regarding the maximum punishment he might receive. As discussed in the  
8 Report and Recommendation, Mr. Moody presented this argument to the Washington State  
9 Supreme Court. Dkt. No. 11 at 9; Dkt. No. 11-2 at 2. The Washington Supreme Court  
10 acknowledged that it was undisputed that Mr. Moody was not informed that the community  
11 custody terms for his convictions were limited by the statutory maximums and, therefore, the  
12 specified terms of his community custody were wrong. Dkt. No. 11-2 at 2. But as Mr. Moody  
13 recognized in his petition, the sentencing court corrected this error by amending the judgment  
14 and *reducing* the term of community custody. Dkt. No. 1 at 3. Therefore, while there was an  
15 error in the information he was provided at the time of his plea, Mr. Moody ultimately received a  
16 lawful sentence on more favorable terms than had been set out in the guilty plea statement. The  
17 Washington Supreme Court held that since his challenge to his guilty plea was a collateral one,  
18 he was required to demonstrate he was actually and substantially prejudiced by the sentencing  
19 misinformation. Dkt. No. 11-2 at 2 (citing *State v. Buckman*, 190 Wn.2d 51, 60 (2018)). The  
20 Washington Supreme Court went on to state that "[Mr. Moody] baldly asserts that he would not  
21 have pleaded guilty had he been accurately informed of the community custody terms. This is  
22 not a sufficient showing of prejudice [under *Buckman*]." Dkt. No. 11-2 at 2.

23 Federal court review of a state court decision on a habeas corpus petition is limited by  
24 statute. Federal courts must defer to a state court's decision for claims that were adjudicated on

1 the merits unless the state court ruling resulted in a decision that was (1) contrary to, or involved  
2 an unreasonable application of, clearly established Federal law or (2) based on an unreasonable  
3 determination of the facts in light of the evidence presented in the State court proceeding.  
4 28 U.S.C. § 2254(d). For the reasons stated in the Report and Recommendation, the Court agrees  
5 that Mr. Moody fails to meet either of these requirements.

6 For the foregoing reasons, the Court hereby ORDERS:

- 7 1. The Report and Recommendation is APPROVED and ADOPTED.
- 8 2. Petitioner's objections are OVERRULED, and Petitioner's federal habeas corpus  
9 petition is DISMISSED with prejudice.
- 10 3. In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the  
11 United States District Courts, a certificate of appealability is DENIED.
- 12 4. The Clerk is directed to send copies of this Order to Petitioner, to counsel for  
13 Respondent, and to the Honorable Theresa L. Fricke.

14 Dated this 15th day of August 2022.

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17 Tana Lin  
18 United States District Judge  
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